

Stop, search and discipline

Under legislation passed in 2006, teachers have been given new powers to discipline students and search them for offensive weapons. This factsheet gives a brief overview of these powers and explores what impact they may have on education staff.

New disciplinary powers

The Education and Inspections Act 2006 will give all staff in schools a new legal right to discipline pupils as follows.

- Detention powers are extended. Pupils who misbehave can be expected to attend Saturday or Sunday detentions during a school term, other than a Saturday or Sunday which falls during, or at a weekend immediately preceding or immediately following, a half-term break to catch up on school work.
ATL's view: ATL is concerned at the work-life balance implications if teachers are directed to attend and supervise these detentions.
- In cases of exclusion from school or truancy, under section 19 of the Anti-social Behaviour Act 2003 schools can make their own applications for parenting orders.
ATL's view: ATL doubts whether headteachers will wish to take on this new role, taking into account its potential impact on relations with parents. ATL questions whether headteachers will have the time and resources to start court proceedings to obtain parenting orders. We believe it is more appropriate for this role to remain with the local authority.
- The Education and Inspections Act will give all staff in lawful charge of pupils the power to discipline pupils for inappropriate behaviour or for not following instruction. This means that headteachers can delegate the responsibility of discipline to support staff as well as teaching staff. However, this is not a new power — it already exists.
ATL's view: If headteachers delegate responsibility to support staff, there is an issue about the role and remit of ATL support staff members and whether it is appropriate for them to take on this additional role.
- Schools must have a behaviour policy in place to promote good behaviour and discipline. Again this is not a new initiative as schools should already have policies in place. The new legislation says the policy should state what measures will be determined by the headteacher to ensure pupils complete any tasks that have been reasonably assigned to them in connection with their education.

ATL's view: The headteacher must establish what standards of behaviour are acceptable. The enforcement of disciplinary penalties, ie detention outside of normal school hours, must also be stated in the policy.

- The new legislation provides a defence for school staff when confiscating inappropriate items. As a disciplinary sanction, if a member of staff lawfully confiscates an item from a pupil, the member of staff will not be held liable in the event of the item being lost or damaged.
- Section 86 of the Act gives power to school staff to use reasonable force. National guidance already exists about the use of reasonable force (*DfES circular 10/98: The use of force to control or restrain pupils*), which gives examples of circumstances in which physical intervention might be appropriate and discusses what is 'reasonable force'. The guidance also advises that schools should have a policy about the use of reasonable force and must inform parents of it. This should therefore already be in place in schools.

ATL's view: Although the above circular provides helpful and practical advice, ATL is concerned that it does not emphasise the need for training. ATL advises schools to provide teachers with training in the use of restraint techniques and suggests members intervene physically only when absolutely necessary. For further information, look up pages 21-24 of our publication, *Violence, threatening behaviour and abuse*, which addresses the issue of using reasonable force to restrain pupils. It is available in hard copy from tel: 0845 4500 009 or can be downloaded from the 'resources' section of www.atl.org.uk.

- The new legislation allows the headteacher of a school to ask the parent of a temporarily excluded pupil to attend a 'reintegration interview' at the school to discuss any improvements in the pupil's behaviour, before the pupil is accepted back in school. The Act does not state what would happen if a parent refuses to attend the interview.

ATL's view: Clearly ATL believes such a request by the head is reasonable and we would hope that parents would comply with the request.

New powers to search school pupils for weapons

The Violent Crime Reduction Act 2006 contains new measures to tackle the problem of young people carrying weapons, including the small minority of pupils who may bring weapons to school. These are as follows.

- Members of staff have the power to search a pupil or his or her possessions (eg his or her bag) if they suspect the pupil may be carrying an offensive weapon.
- The search should be carried out by the headteacher or someone who has been authorised by the head to carry out the search.
- A pupil's possessions may only be searched in his or her presence and in the presence of an additional person over the age of 18, who is also the same sex as the pupil. Strip searches are not permitted.

ATL has the following views on these new measures.

- We are concerned that searching individuals or large groups of pupils based only on the suspicion that they have a weapon in their possession could give rise to a lot of difficulties such as:
 - accusations that the staff member has planted the weapon on the pupil
 - the risk of becoming injured if coming in to contact with a needle or blade when carrying out the search.
- ATL believes that teachers must receive specific training if they are to carry out these searches and proper guidelines should be put in place.

- As well as the safety concerns involved in searching a pupil, a search could also have an adverse effect on the teacher's relationship with the pupil.
- ATL is further concerned that, in carrying out this role, it introduces a perception of policing to the role of teachers.
- Headteachers should call the police, or be allowed to commission the searches from outside experts or specialist staff who have school security as part of their job role.

When the power to search comes into effect early in 2007, the DfES has announced it will publish guidance for school staff on searching pupils in their care, in line with the new power.

Every school should publish a policy on how searches should be conducted. After publication of the guidance it should define:

- what would constitute 'reasonable grounds' for suspecting the presence of a weapon
- what teachers should do before a search
- how many people should be present
- search methods
- what sort of records should be kept.

If you have any queries about the new powers, contact ATL's member advisers, as outlined below.



Need advice?

Your first point of contact is your ATL rep in your school or college. Your local ATL branch is also available to help with queries, or you can contact ATL's member advisers on **020 7930 6441**, email: **info@atl.org.uk** or write to 7 Northumberland Street, London WC2N 5RD. Don't forget you can also get lots of help and advice, as well as download copies of other ATL advice sheets, on our website at **www.atl.org.uk**

© Association of Teachers and Lecturers 2007. All rights reserved. Information on this sheet may be reproduced or quoted with proper acknowledgement to the Association.